EASTERN DISTRICT OF NEW YORK	
&	X
UNITED STATES OF AMERICA,	:
against,	: Ind. No. 12 CR 61 (JBW)
SHERIEKA SMALLING,	: NOTICE OF MOTION
Defendant.	:
	: X

## SIRS or MADAMS:

PLEASE TAKE NOTICE, that upon the attached declarations of Ms.

Sherieka Smalling and Mr. Kwan Miller, <sup>1</sup> the attached memorandum of law, and the prior proceedings herein, the undersigned will move the United States District Court for the Eastern District of New York on the 30<sup>th</sup> day of April, at 9:30 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, for an Order granting the following:

- I. Motion to Sever Sherieka Smalling's Trial from that of Kwan Miller Pursuant to Ms. Smalling's Fifth Amendment Right to Due Process of Law, Sixth Amendment Right to Compulsory Process and Rule 14(a) of the Federal Rules of Criminal Procedure;
- II. Motion for a bench trial, rather than a jury trial, pursuant to Rule 23(a)(1) of the Federal Rules of Criminal Procedure;
- III. Motion to Reserve Defendant's Right to Supplement These Motions or Make Further Motions;

And for such other and further relief as this Court may deem just and proper.

<sup>&</sup>lt;sup>1</sup> Mr. Kwan Miller has promised to provide a declaration in support of this motion, but is awaiting his counsel's review of some of the e-mails provided to counsel in the government's Rule 16 discovery disclosures. Mr. Miller's declaration will be submitted as soon as it becomes available.

Dated: New York, New York

April 12, 2012

Yours, etc.

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